

In the instant Office Action, claims 1-138 are listed as pending and claims 1-138 are subject to restriction and/or election requirement.

The Examiner has required election of a single disclosed species under 35 U.S.C. §121. Applicants respectfully traverse the restriction and election requirements. However, to be fully responsive to the restriction and election requirements, Applicants provisionally elect the species of Example 207, *trans*-N2-(4-{4-amino-1-[4-(4-methylpiperazino)cyclohexyl]-1*H*-pyrazolo[3,4-*d*]pyrimidin-3-yl}-2-methoxyphenyl)-1-methyl-1*H*-2-indolecarboxamide, trimaleate salt, that is on page 299 of the instant specification with traverse. Claims 1, 2, 3, 9, 33-52, 71, 75, 76, 81, 89, and 112-131 read upon the provisionally elected species.

Applicants respectfully traverse the election requirement. The Examiner alleges that the pyrazolopyrimidine core structure can form different species when G variable is a phenyl group, a monoazine group, a diazine group, a triazine group, etc.

Proper restriction between independent and distinct inventions claimed in the same application requires that (1) the invention must be independent and distinct as claimed and (2) there must be a serious burden placed on the Examiner by not requiring election. If either criteria is not met, restriction is not proper.

With respect to the term "independent", "independent" means that there is no disclosed relationship between the two or more subjects disclosed in a patent application. M.P.E.P. §802.01. The instant application is directed to pyrazolopyrimidines that are kinase inhibitors. Thus, the common thread linking these compounds is twofold, first they all share a pyrazolopyrimidine core structure and, second, they inhibit one or more kinases.. Therefore, the subjects of the instant application are not "independent" as determined by M.P.E.P. 802.01.

The term "distinct", as defined in M.P.E.P. § 802.01, means two or more subjects as disclosed are related but are capable of separate manufacture, use or sale as claimed, and are patentable over each other. The compounds of the invention are related by the common core pyrazolopyrimidine structure as well as their common utility as kinase inhibitors. The compounds represent different embodiments of one invention. Thus, the subjects disclosed in the instant application do not meet the criteria for "distinct" as defined in M.P.E.P. § 802.01.

Thus, Applicants respectfully submit that the instant invention does not meet the threshold of "two or more independent and distinct" inventions as required in 35 U.S.C. §121 and as such the restriction requirement is improper.

With respect to the burden of the examination, M.P.E.P. §803 states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent and distinct inventions.

The instant application contains two searchable, unifying aspects, i.e. inhibition of kinase activity and a common core structure, which link all of the species. The compounds disclosed in the instant application represent different embodiments of a single inventive concept for which a single patent should issue. These species represent an intricate web of knowledge, continuity of effort, and consequences of a single invention, which merit examination in a single application. Applicants submit that the Examiner can search and examine the application without serious burden.

Based upon the foregoing, the election requirement should be withdrawn and all of the subject matter of claims 1-138 should be prosecuted together. Prompt and favorable action is earnestly solicited.

If the Examiner believes that there are any issues that could be resolved in a telephone conference, Applicants invite the Examiner to call Applicants' undersigned agent.

Respectfully submitted,

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